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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/273,098	03/19/1999	MARC TESSIER-LAVIGNE	UC97-244-2	6612

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 07/22/2003

24

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliance  
With 37 CFR 1.192(c)**

Application N .

09/273,098

Examiner

Marianne P. Allen

Applicant(s)

TESSIER-LAVIGNE ET AL.

Art Unit

1631

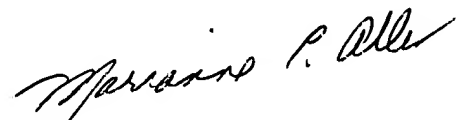
**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 3/1/03 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192 (c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☐ A single ground of rejection has been applied to two or more claims in this application, and
  - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
  - (b) ☐ the brief includes the statement required by 37 CFR 1.192(c) (7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

  
Marianne P. Allen  
Primary Examiner  
Art Unit: 1631

Continuation of 9. Other (including any explanation in support of the above items): The brief contains argument with respect to the Van Vactor et al. reference. This reference is attached to the brief. This reference is not of record and arguments with respect to this reference have not been previously presented. In addition the brief contains argument with respect to the Goodman Declaration. This declaration is also attached to the brief. This declaration was signed 2/20/01, after the date of the final rejection, 12/6/00. The Goodman Declaration presented prior to the final rejection (Paper No. 7) was signed 9/6/00. The replacement declaration has not been accepted and the petition to expunge the original declaration has been held in abeyance (see Paper No. 11, submitted 2/26/01, and Paper No. 20, mailed 1/15/03). Appellant is advised that 37 CFR 1.195 directs:

§ 1.195 Affidavits or declarations after appeal.

Affidavits, declarations, or exhibits submitted after the case has been appealed will not be admitted without a showing of good and sufficient reasons why they were not earlier presented.

No showing of good and sufficient reasons why the Van Vactor et al. reference was not earlier presented has been submitted. As such, the Goodman Declaration signed 2/20/01 and the Van Vactor et al. reference will not be admitted and the appeal brief is defective.